

APPROVED: Meeting No. 19-91

ATTEST: *Sharon A. Ben*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 13-91

April 22, 1991

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on April 22, 1991, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepian

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. A second newsletter transmitting information regarding the Cabin John Lake project was distributed last week. The public informational meeting on this project is scheduled for Tuesday, April 30, at 7:30 p.m. There will be presentations by City staff as well as representatives of the state regulatory agencies. It is the intent of the City to inform all interested parties as to how the project is progressing and the various steps in the process. It is anticipated that the permit and design process will take approximately two years.

Councilmember Coyle congratulated staff on the newsletter, indicating that he hoped a similar information sheet could be used for other major City projects.

2. The City is pleased to participate in the career fair to be held at Montgomery College this Saturday. Representatives of the City personnel department will be there to answer questions and provide information.

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3. Staff is beginning to plan for the animal census which will be taken this summer by the summer youth employment staff. This process will involve going door-to-door as well as telephone canvassing.

4. The rededication of Dogwood Park was held this past Saturday. The artwork designed especially for Dogwood Park was also dedicated followed by the opening day of the Rockville Baseball Association season.

A couple of questions have been raised with respect to the new lighting system at Dogwood Park. While the lights are brighter, this is to be expected inasmuch as the old system had been in place for 20 years and there had been significant deterioration. The new system has Level 6 lighting and was designed by a company expert in the field. The lights will lose approximately 15% of their brightness with the first 200 hours of use due to oxidation. It should also be noted that the lights have been out for a year, thus, any lighting system would be perceived as bright in comparison.

Councilmember Coyle inquired as to how much of an impact the trees will have on filtering lights. The City Manager responded that, once the trees are leafed out, there should be additional screening.

Councilmember Marrinan noted that one of the concerns was the loudspeaker system and asked if there is a time limit after which the sound system would not be operated. Staff responded in the affirmative, noting that steps are being taken to ensure that the time limits are strictly enforced.

Mayor Duncan inquired as to whether timing applies to the lights as well, and the City Manager responded that he will check into this.

Re: Proclamation recognizing the
10th Anniversary of the
American Legion Post 86 Color
Guard.

Proclamation No. 5-91

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By a unanimous vote of the Mayor and Council, the tenth anniversary of the American Legion Post Color Guard on April 30, 1991, was recognized. Councilmember Robbins read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Tom Rohrback, Captain, Don Short, First Lieutenant, John Hurley, Past Captain and Ron Sumner, Past Captain, accepted the Proclamation.

Re: Proclamation declaring April
26, 1991, as **Arbor Day** in
Rockville.

Proclamation No. 6-91

By a unanimous vote of the Mayor and Council, April 26, 1991, was declared "Arbor Day" in Rockville. Councilmember Hovsepian read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council, which was presented to Charles Carroccio, Chairperson of the City of Rockville Recreation and Park Advisory Board.

The City of Rockville will observe Arbor Day with a special ceremony and tree planting at the Rockville Senior Center at 11:30 a.m. on April 26.

Re: Proclamation declaring April
26 and 27, 1991, as **Special
Olympics Days** in Rockville

Proclamation No. 7-91

By a unanimous vote of the Mayor and Council, April 26 and 27, 1991, were declared "Special Olympics Days" in Rockville. Councilmember Marrinan read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Maria Stoelker, Secretary of the Montgomery County Special Olympics, accepted the Proclamation.

The Montgomery County Special Olympics will host their 23rd annual games on Friday, April 26, and Saturday, April 27, at the Rockville campus of Montgomery College and at Richard Montgomery High School.

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is \$72,000, there are sufficient funds in the Replacement Fund for this purchase.

D. Receipt of March financial reports.

These reports summarize the financial results of City operations for the period of July 1, 1990 through March 31, 1991.

E. Adoption of Resolution No. 7-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, to amend Resolution No. 21-89 so as to provide for a waiver of variance application fees for signs which became non-conforming on January 1, 1984, by virtue of the passage of Ordinance No. 42-83.

This resolution would waive the \$200 fee for specified sign owners filing for a variance to be heard by the Sign Review Board. This would apply only to approximately 100 signs that lawfully existed prior to January 1, 1984, but became non-conforming by virtue of the 1983 amendments to the Rockville Sign Ordinance.

F. Approval of rules and regulations governing hearings on complaints held by the Human Rights Commission pursuant to Section 11-59 of the Rockville City Code.

Chapter 11, "Human Rights" of the Rockville City Code provides that the Human Rights Commission may adopt and publish rules and regulations for the orderly conduct of its business upon the approval of the Mayor and Council.

G. Proclamation No. 9-91, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council, declaring the month of May as **Older Americans Month**.

The month of May has been set aside to pay special tribute to the talent and skills of our senior citizens.

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Re: Rejection of Bid No. 72-91,
Tennis and Basketball Courts
Improvements.

This project includes asphalt resurfacing, recreational cushion undersurface, color coating and line striping of basketball and tennis courts at Lincoln Park and the Civic Center. The budgeted amount is \$60,000. Councilmember Marrinan had requested that this item (B) be removed from the Consent Agenda in order to inquire as to a procedural point. The background material indicates that the bids were opened on March 20. He questioned why the material was just getting back to the Mayor and Council and asked if letters of apology would be sent to the bidders. He also expressed concern that the improvements would be delayed as a result of this bid rejection.

The City Manager responded that it is not unusual for some time to elapse, oftentimes because the window period for scheduling agenda items is missed. The City makes a concerted effort to deal with all bidders in a responsible fashion. Staff also noted that the work was planned for late August and that it would still be completed on time.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Bid No. 72-91, Tennis and Basketball Courts Improvement, was rejected.

Re: Award of Request for Proposal
No. 78-91, Fireworks Production
for Hometown Holidays,
Independence Day and Rotary
Twilight Run to Zambelli
Internationale of New Castle,
Pennsylvania, in the amount
of \$37,350.

The fireworks productions include all materials, set up, pyrotechnicians, firing and clean-up. Councilmember Marrinan had requested that this item (C from the Consent Agenda) be removed in order to inquire as to the correct figure for the bid award. Staff confirmed that it is \$37,350. Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Request for Proposal No. 78-91 was awarded to Zambelli

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Re: Proclamation declaring April
28, 1991, as **Rockville Science
Day**.

Proclamation No. 8-91

By a unanimous vote of the Mayor and Council, April 28, 1991, was declared "Rockville Science Day." Councilmember Coyle read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Sheila Marshall and other members of the Rockville Consortium for Science accepted the Proclamation.

On April 28, the Rockville Consortium for Science will sponsor its second annual Rockville Science Day to be held at Montgomery College's Rockville campus.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Rich Archer, 310 Croydon Avenue, referenced the public forum to be held in May concerning the proposed Animal Control Ordinance. He expressed concern that citizen comments at this forum would not be afforded the same weight as testimony at a public hearing. Mayor Duncan assured Mr. Archer that citizen comments at this forum would be given full consideration prior to a final decision by the Mayor and Council. It is the desire of the Mayor and Council to create a less formal session, thereby providing residents with the opportunity to ask questions of the Committee which reviewed the ordinance and the Mayor and Council.

2. John Tyner, 5911 Halpine Road, addressed three matters:

a. The Twinbrook Citizens Association appreciates receiving a copy of the City's operating budget and Capital Improvements Program and will be back to offer constructive comments.

b. The Kiwanis Club is delighted that the Mayor and Council is considering reinstatement of the service club signs on a Welcome to Rockville sign at the Veirs Mill

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Road entrance.

c. Following two years of effort, the North Bethesda Master Plan Advisory Committee is coming to the end of the first stage of its task. The draft report will be released on May 13, and the Committee will be holding worksessions with Park and Planning. Mr. Tyner commented that the report is very complimentary of the City, particularly with respect to the Twinbrook Neighborhood Plan and the Rockville Pike Plan.

There being no other citizens wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Peter Clifford was appointed to a three-year term on the Rockville Scholarship Foundation Board of Directors.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Loretta Pelletier was appointed to a one-year term on the Rockville Seniors, Inc. Board.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, Donald Johnson was reappointed as a member and Alice Boyer was appointed as an alternate to the Sign Review Board for three-year terms.

Re: Consent Agenda

Councilmember Marrinan requested that Items B and C be removed from the Consent Agenda. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- A. Award of Bid No. 43-91 for the purchase of two 35,000 GVWR Diesel Dump Trucks from low bidder, Dovell & Williams, Inc., for \$73,992.60.

This purchase will provide two replacement trucks for the Utilities Division. Though the amount budgeted

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Internationale in the amount of \$37,350, for fireworks displays for Hometown Holidays and the July 4th celebrations.

Re: Presentation of Report from
Task Force on Sprinkler
Retrofitting

John Tyner, representing Rockville Chamber of Commerce, presented the report to the Mayor and Council. He indicated that the Task Force was comprised of City staff, the County Fire Marshal, members of the business community and owners of several of the buildings potentially affected. There have been only three incidences of fire and no fire fatalities in Rockville over the past 10 years in nursing homes, office buildings or multi-family homes. In view of these statistics, the Task Force recommends that the City not require retrofitting of highrise multi-family and commercial buildings with automatic fire suppression equipment because of the high costs associated with retrofitting. Detailed estimates for retrofitting the Americana Centre buildings and the General Electric building were \$2.89 and \$1.91 per square foot, respectively, with a total cost of \$2,000,000 for the American Centre and \$416,810 for the GE building.

The Task Force further recommends that building owners who voluntarily retrofit their buildings be afforded the construction benefits of fully sprinklered buildings if sprinklering is achieved in a phased-in manner.

Councilmember Robbins was advised that the probability of owners voluntarily engaging in retrofitting is negligible as there are currently no direct incentives for them to do so. While only a few jurisdictions currently mandate retrofitting, Councilmember Coyle indicated that eventually you will see more communities going to retrofit.

No recommendation was made with respect to the nursing homes in the City as representatives of the nursing home industry were not involved in the discussions. It was noted, however, that the nursing homes meet all current state and federal codes for fire suppression and evacuation.

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Councilmember Coyle indicated that this issue will come back in the future. He requested that the City Manager and staff explore alternative ways to provide incentives for owners, particularly owners of nursing homes, who will retrofit.

Clarification of the relative costs of monitoring sprinkler systems versus insurance savings was requested by Councilmember Marrinan so that this information would not be misleading to someone reading the Task Force report.

Re: Adoption of Ordinance to amend Chapter 17, "Purchasing" of the Rockville City Code so as to increase from \$250 to \$1,000 the amount of awards required to be in writing and to increase the amount of expenditures which may be approved by department heads from \$250 to \$1,000.

Ordinance No. 14-91

The \$250 threshold has been in place since the original adoption of the procurement section of the City Code in 1983. This figure has proven to be administratively impractical since the costs of compliance have often exceeded the benefits derived therefrom. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 14-91, the full text of which can be found in Ordinance Book No. 17 of the Mayor and Council, was adopted to increase from \$250 to \$1,000 the amount of awards required to be in writing and to increase the amount of expenditures which may be approved by department heads from \$250 to \$1,000.

Re: Discussion and Instructions to Staff - "Welcome to Rockville" signs.

At the direction of the Mayor and Council, staff has reviewed ways to accommodate the service club signs on a Welcome to Rockville sign at the Veirs Mill Road entrance to the City in a tasteful manner and in compliance with the City's Sign

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Ordinance. A design for a new sign has been prepared by the City's contract landscape architect who consulted the Parks Department to develop a solution to the maintenance problem. The sign, projected to cost approximately \$30,000, is a 17 foot by six foot stonewall structure which would accommodate at least ten service club emblems.

Discussion ensued regarding the number and types of signs at other City gateways. Councilmember Hovsepian commented that the Veirs Mill Road entrance is the only location that really lends itself to a "service club" sign.

Concern was expressed with regard to the projected cost of the sign. It was agreed that the signs used at other entrances to the City would be retained and that a similar sign with an additional panel added for the service club emblems would be erected at Veirs Mill Road. Staff was requested to have the Veirs Mill Road sign completed by the end of the fiscal year as well as the landscaping and addition of the Rockville flag and corrected Pinneberg, Germany panels for the other gateway signs.

The policy of placing the Rockville logo on Rockville street signs was also discussed, and it was agreed that a memo and recommendation would be forthcoming from the City Manager on this issue which would be discussed during budget deliberations.

Re: Discussion and Instructions
to Staff - Proposed tree
preservation program.

Staff noted that in order to protect Rockville's trees, a tree bank program has been proposed which encompasses trends for tree preservation at all levels of government. Drafts of the program have been reviewed by the Recreation and Park Advisory Board and the Planning Commission. Essentially, the proposed program has three elements:

1. a consolidation and enhancement of existing regulations for trees on public property;
2. a new preservation and replacement program for trees on private property;

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3. a public awareness campaign to teach the economic and environmental advantages of tree preservation.

The City Forester provided the following overview of the program:

The tree bank guidelines apply to all trees on City property or right-of-way; all trees on private or other public property which are greater than 12 inches in diameter; all trees that are part of a woodland area, a wildlife habitat or located within the City's Historic District and/or part of a unique or rare species, as determined by the City Forester.

Staff commented that it would be beneficial to the City to have more regulatory control over how the utility companies deal with City trees. The State currently has this authority, and Councilmember Hovsepian asked about the ease of obtaining this supervisory control over trees in the State right-of-way. Staff noted that the State has very limited personnel, and there are pruning standards which can be easily adopted.

It was noted that a homeowner must file an application with the City Forester to remove a tree from his/her property. The program is designed to help homeowners by providing four options:

1. preserve the tree as recommended by the City Forester;
2. replace the tree with a smaller tree;
3. contribute to a tree planting fund for the homeowner's neighborhood; or
4. no participation at all.

Homeowners replacing a tree would be recognized at the annual Arbor Day ceremony. If a homeowner does not wish to replace a tree on his property, the Parks Department would give a tree to the local homeowners association for planting in another location. If a homeowner were to remove a tree without filing an application, he or she may receive a municipal infraction citation.

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The high cost of having trees trimmed was mentioned by Councilmember Coyle and how discouraging it is to those interested in preservation. He asked if the City could mitigate costs, perhaps through an arrangement with a contractor for reasonable prices to do preservation work for homeowners. Staff will review this suggestion in more detail.

Although the proposed program has a worthy objective and participation is voluntary, Councilmember Robbins felt that it may be perceived as governmental intrusion on private property. Staff commented that other communities, such as Gaithersburg, have similar programs. If a homeowner could not afford to replace a tree, the City would provide it. Councilmember Robbins also expressed concern with the budget implications of such a program.

In relation to homeowner applications, Councilmember Marrinan stated that there are a number of unanswered questions. With respect to planned residential areas with common grounds, there could be substantial costs involved. Staff noted that the City could contract with a local landscaper to provide the trees at a given cost on an annual basis. The expense of the program would be offset by donations to the tree fund by developers.

Mayor Duncan requested that staff package the program to highlight the service aspect of the program. Additionally, there was agreement among the Mayor and Council that residents should be encouraged to complete the application form but it should not be a mandatory requirement with associated penalties for failure to comply.

Insofar as the developer application is concerned, this would be part of the regular development process which requires a tree preservation plan.

The Public Awareness Campaign would make use of the City's newsletter and cable channel. Additionally, the Tree Hugger Award, the Champion Tree Program and the Tree Protection Manual would be used to promote the program.

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Discussion followed regarding the requirements of this program in relation to the recently adopted Forest Conservation Act. Staff noted that although the State may require between 15% and 50% replacement, the tree bank program proposes 15% Citywide. This is primarily because the City of Rockville does not have any areas which would fall within the 50% requirement. Mayor Duncan requested that staff explore this issue further.

Councilmember Coyle emphasized the importance of coordination with the Board of Appeals in cases where variances are requested in order to preserve trees on the property.

Clarification regarding the mechanism for enforcement and imposition of fines was requested by Councilmember Marrinan. Licenses and Inspection would enforce the proposed ordinance in the same manner as other City laws. An appeals process could be set up through the Recreation and Park Advisory Board.

Staff noted that this is a concept only and that there are a number of details to be worked out. Instructions are being sought so that staff can develop the text amendment application and other necessary rules and regulations dealing with the issues of education and enforcement. The City Manager stated that the concerns expressed by the Mayor and Council would be factored in as staff continues to develop the program.

Re: FYI/Correspondence

Councilmember Hovsepian noted two items:

- o At the Maryland Recreation and Park Association Conference, the City received the annual Park Award for the fishing tournament; and
- o letter of commendation for Captain Yates and PO3 Marsh of the Police Department.

With respect to the Lincoln Park 100th Anniversary, Councilmember Hovsepian asked what staff is contributing in addition to the youth breakfast and if the Council

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wishes to help fund the Anniversary celebration. Mayor Duncan responded that there is some funding in Recreation and Parks budget for community events such as picnics where the Department provides money and equipment. He requested that staff research what funding is already being provided and come back with a recommendation regarding this celebration.

Re: New Business

Councilmember Coyle referenced a complaint he had received from Rupert Curry regarding speeding on Maryland Avenue. The change from 35 mph to 25 mph at the New Mark Commons entrance is a problem as drivers have difficulty slowing down. The City Manager responded that the road is designed and classified for a 35 mph limit, and the decrease to 25 mph is necessitated by the change of alignment. Mayor Duncan asked if the West End Traffic Group is looking into this issue and requested that the Traffic and Transportation Commission, in concert with the West End Group, review this matter.

The National League of Cities has requested municipalities to get in touch with their Congressional representatives in support of the House resolution rejecting proposed cuts in municipal programs, including the Community Development Block Grant. Councilmember Coyle requested that the Mayor send such a letter.

Regarding the County Detention Center housing federal prisoners, Councilmember Coyle expressed concern that the County should be making efforts to reduce the inmate population rather than increasing it through the housing of federal prisoners. The County made a commitment to bring the population down to 450-500 inmates and this move violates the spirit and intent of the County's agreement with the City.

Mayor Duncan commented that the real issue is whether the County will proceed with its plans to build a new countywide facility. The County has never had a long-range plan and, in the past, has moved only when overcrowding already existed. Three consultants have advised the County that they should not alter their plans to build a

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new facility. It was agreed that Mayor Duncan would send a letter to the County Executive and County Council restating the City's earlier position regarding temporary capacity.

Re: Next Meeting - May 13, 1991

There are a number of worksessions, a public forum on the Animal Control Ordinance and an informational meeting on Cabin John Lake prior to the next general session meeting of May 13.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:43 p.m., to convene again in Worksession at 7:00 p.m. on April 24, 1991, or at the call of the Mayor.